

APPENDIX.

I.

CORRESPONDENCE BETWEEN MR. JUSTICE FIELD AND THE OTHER MEMBERS OF THE COURT WITH REGARD TO HIS RETIRING FROM THE BENCH.

1. *Mr. Justice Field to the Chief Justice and the Associate Justices.*

SUPREME COURT OF THE UNITED STATES,
WASHINGTON, October 12, 1897.

DEAR MR. CHIEF JUSTICE AND BRETHREN: Near the close of last term, feeling that the duties of my office had become too arduous for my strength, I transmitted my resignation to the President, to take effect on the first day of December next, and this he has accepted, with kindly expressions of regard, as will be seen from a copy of his letter, which is as follows:

"EXECUTIVE MANSION, WASHINGTON,
October 9th, 1897.

"HON. STEPHEN J. FIELD, *Associate Justice of the Supreme Court of the United States, Washington, D. C.*

"MY DEAR SIR: In April last Chief Justice Fuller, accompanied by Mr. Justice Brewer, handed me your resignation as Associate Justice of the Supreme Court of the United States, to take effect December 1st, 1897.

"In hereby accepting your resignation, I wish to express my deep regret that you feel compelled by advancing years to sever your active connection with the court of which you have so long been a distinguished member.

"Entering upon your great office in May, 1863, you will, on the first of next December, have served upon this bench for a period of thirty-four years and seven months—a term longer than that of any member of the court since its creation and throughout a period of special importance in the history of the country, occupied with as grave public questions as have ever confronted that tribunal for decision.

"I congratulate you therefore most heartily upon a service of such exceptional duration, fidelity and distinction. Nor can I overlook the fact that you received your commission from Abraham Lincoln, and, graciously spared by a kind Providence, have survived all the members of the court of his appointment.

"Upon your retirement both the bench and the country will sustain a great loss, but the high character and great ability of your work will live and long be remembered, not only by your colleagues, but by your grateful fellow countrymen.

"With personal esteem and sincere best wishes for your contentment and happiness during the period of rest which you have so well earned, I am, dear sir,

"Very truly yours,

"WILLIAM McKINLEY."

My judicial career covers many years of service.

Having been elected a member of the Supreme Court of California, I assumed that office, October 13, 1857, holding it for five years, seven months and five days, the latter part of the time being Chief Justice.

On the tenth of March, 1863, I was commissioned by President Lincoln a Justice of the Supreme Court of the United States, taking the oath of office on the twentieth day of the following May.

When my resignation takes effect my period of service on this bench will have exceeded that of any of my predecessors, while my entire judicial life will have embraced more than forty years.

I may be pardoned for saying that during all this period, long in comparison with the brevity of human life, though in the retrospect it has gone with the swiftness of a tale that is told, I have not shunned to declare in every case coming before me for decision the conclusions, which my deliberate convictions compelled me to arrive at, by the conscientious exercise of such abilities and acquirements as I possessed.

It is a pleasant thing in my memory that my appointment came from President Lincoln, of whose appointees I am the last survivor.

Up to that time there had been no representative here of the Pacific coast. A new empire had risen in the West, whose laws were those of another country. The land titles were from Spanish and Mexican grants, both of which were often overlaid by the claims of the first settlers. To bring order out of this confusion, Congress passed an act providing for another seat on this bench, with the intention that it should be filled by some one familiar with these conflicting titles and with the mining laws of the coast, and as it so happened that I had framed the principal of these laws, and was, moreover, Chief Justice of California, it was the wish of the Senators and Representatives of that State, as well as those from Oregon, that I should succeed to the new position. At their request Mr. Lincoln sent my name to the Senate, and the nomination was unanimously confirmed. This kindly welcome was extended in March, but I did not at once enter on the discharge of the duties of the office for the reason that as Chief Justice of California I had heard arguments in many cases, in the disposition of which and especially in the preparation of opinions, it was fitting that I should participate before leaving that bench; and I fixed the twentieth of May as the day on which to take, as I did, the oath, because it was the eighty-second birthday of my father, who indulged a just pride at my accession to this exalted position.

At the head of the court, when I became one of its members, was the venerable Chief Justice Taney, and among the Associate Justices was Mr. Justice Wayne, who had sat with Chief Justice Marshall, thus constituting a link between the past and the future, and, as it were, binding into unity nearly an entire century of the life of this court.

During my incumbency three Chief Justices and sixteen Associate Justices have passed away, leaving me precious remembrances of common labors and intimate and agreeable companionship.

When I came here the country was in the midst of war. Washington was one great camp, and now and then the boom of cannon could be heard from the other side of the Potomac. But we could not say *inter arma silent leges*. This court met in regular session, never once failing in time or place, and its work went on as though there were no sound of battle. Indeed, the war itself simply added to the amount of litigation here as elsewhere. But the war ended in a couple of years, and then came the great period of reconstruction and the last amendments to the Federal Constitution. In the effort to reestablish the nation, to adjust all things to the changed political, social and economic conditions, questions of far-reaching

import were developed, — questions of personal liberty, of constitutional right, which, after oftentimes heated discussions before the people and in the halls of Congress, came to us for decision. I do not exaggerate when I say that no more difficult and momentous questions were ever presented to this or any other court. I look back with pride and joy to the fact that I was permitted to take part in the consideration of all those important questions, and that not infrequently I was called upon to express the judgment of this court thereon. And now that those times of angry debate, deep feeling and judicial decision have passed, it is pleasant to realize that the conclusions announced by this court have been accepted, not simply of necessity as so prescribed by the fundamental law, but, in the main, as in themselves both correct and wise.

As we all know, the period of the war was followed by one, continuing even to the present time, of marvellous material development. Wealth accumulated such as never before was dreamed of in this country. Gigantic enterprises were undertaken and carried through. Inventions have multiplied the conveniences of life, as well as the possibilities of achievement. Indeed, the conditions of life have essentially changed from those that prevailed prior to the war. Out of this changed social and economic condition have sprung not merely an immense multitude of cases, but litigation of a character vitally affecting the future prosperity and safety of this country. To this court have come for final solution and decision many of these questions and cases. By the blessing of Almighty God, my health and life have been preserved, and I have been enabled to take part in the consideration of all these cases. Few appreciate the magnitude of our labors. The burden resting upon us for the last fifteen or twenty years has been enormous. The volumes of our reports show that I alone have written 620 opinions. If to these were added 57 opinions in the Circuit Court and 365 prepared while I was on the Supreme Court of California, it will be seen that I have voiced the decision in 1042 cases.

If it may be said that all of our decisions have not met with the universal approval of the American people, yet it is to the great glory of that people that always and everywhere has been yielded a willing obedience to them. That fact is eloquent of the stability of popular institutions; and demonstrates that the people of these United States are capable of self government.

As I look back over the more than a third of a century that I

have sat on this bench, I am more and more impressed with the immeasurable importance of this court. Now and then we hear it spoken of as an aristocratic feature of a Republican government. But it is the most Democratic of all. Senators represent their States, and Representatives their constituents, but this court stands for the whole country, and as such it is truly "of the people, by the people, and for the people." It has indeed no power to legislate. It cannot appropriate a dollar of money. It carries neither the purse nor the sword. But it possesses the power of declaring the law, and in that is found the safeguard which keeps the whole mighty fabric of government from rushing to destruction. This negative power, the power of resistance, is the only safety of a popular government, and it is an additional assurance when the power is in such hands as yours.

With this I give place to my successor. But I can never cease to linger on the memories of the past. Among the compensations for all the hard work that a seat on this bench imposes, have been the intimacies and friendships that have been formed between its members. Though we have often differed in our opinions, it has always been an honest difference, which did not affect our mutual regard and respect. These many years have indeed been years of labor and of toil, but they have brought their own reward; and we can all join in thanksgiving to the Author of our being that we have been permitted to spend so much of our lives in the service of our country.

With profound respect and regard, I am, my dear brethren,

Very sincerely and always yours,

STEPHEN J. FIELD.

2. The Chief Justice and the Associate Justices to Mr. Justice Field.

SUPREME COURT OF THE UNITED STATES,
WASHINGTON, October 13, 1897.

DEAR BROTHER FIELD: We are profoundly moved by the letter in which you announce to us your retirement from the bench.

The termination of a judicial career of such length and distinction cannot fail to inspire among all your countrymen, and, indeed, wherever the realm of jurisprudence extends, a keen sense of loss, which to your colleagues assumes the aspect of a personal bereavement. For the intimacy necessarily incident to the conduct of

work so constant, so exacting and of such vital importance as ours, inevitably draws us together by ties of the closest character which cannot be dissolved without emotions of deep sadness and regret. We feel that our parting involves not simply the deprivation of the assistance afforded by your learning, your vast experience and your earnestness in advocacy of your convictions, but the severance of those relations which have contributed so much to lighten the hardest labors of the road.

This is not the time or place to dwell on the reputation you have achieved as a jurist. The record is made up, and may safely be committed to the judgment of posterity.

But we cannot part with you as an active member of the court without the fervent expression of the hope that you may be spared for many years to enjoy the repose you have so thoroughly earned, and the commendation bestowed on good and faithful service.

We are, dear brother Field,

Your affectionate brethren,

MELVILLE W. FULLER,
JOHN M. HARLAN,
HORACE GRAY,
DAVID J. BREWER,
HENRY B. BROWN,
GEORGE SHIRAS, JR.,
E. D. WHITE,
R. W. PECKHAM.

II.

ASSIGNMENTS TO CIRCUITS.

SUPREME COURT OF THE UNITED STATES.OCTOBER TERM, 1897.

ORDER.

It is ordered that the following allotment be made of the Chief Justice and Associate Justices of this Court among the Circuits, agreeably to the act of Congress in such case made and provided, and that such allotment be entered of record, viz. :

For the First Circuit, HORACE GRAY, Associate Justice.
For the Second Circuit, RUFUS W. PECKHAM, Associate Justice.
For the Third Circuit, GEORGE SHIRAS, JR., Associate Justice.
For the Fourth Circuit, MELVILLE W. FULLER, Chief Justice.
For the Fifth Circuit, EDWARD D. WHITE, Associate Justice.
For the Sixth Circuit, JOHN M. HARLAN, Associate Justice.
For the Seventh Circuit, HENRY B. BROWN, Associate Justice.
For the Eighth Circuit, DAVID J. BREWER, Associate Justice.
For the Ninth Circuit, DAVID J. BREWER, Associate Justice.

December 13, 1897.

III.

COSTS IN CIRCUIT COURTS OF APPEALS.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1897.

ORDER.

Ordered, in pursuance of the act of Congress of February 19, 1897, 29 Stat. 536, c. 263, that the following table of fees and costs in the Circuit Courts of Appeals be, and the same is, hereby established, to take effect on the first day of March, A.D. 1898, and no other fees and costs than those therein named shall thereafter be charged:

Docketing a case and filing the record	\$5 00
Entering an appearance	25
Transferring a case to the printed calendar	1 00
Entering a continuance	25
Filing a motion, order or other paper	25
Entering any rule, or making or copying any record or other paper, for each one hundred words	20
Entering a judgment or decree	1 00
Every search of the records of the court and certifying the same	1 00
Affixing a certificate and a seal to any paper	1 00
Receiving, keeping and paying money, in pursuance of any statute or order of court, one per cent on the amount so received, kept and paid.	
Preparing the record for the printer, indexing same, supervising the printing and distributing the copies, for each printed page of the record and index	15
Making a manuscript copy of the record, when required by the rules, for each one hundred words (but nothing in addition for supervising the printing)	20
Issuing a writ of error and accompanying papers, or a mandate or other process	5 00
Filing briefs, for each party appearing	5 00
Copy of an opinion of the court, certified under seal, for each printed page (but not to exceed five dollars in the whole for any copy)	1 00
Attorney's docket fee	20 00

January 10, 1898.